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Letter dated 22 June 2018 from the Secretary-General addressed to the President of the Security Council

I have the honour to refer to Security Council resolution 1966 (2010), by which the Council established the International Residual Mechanism for Criminal Tribunals and, in particular, the appointment of the judges, the President and the Prosecutor of the Mechanism.

The terms of office of the current judges, the President and the Prosecutor will expire on 30 June 2018.

I recall that, under paragraph 17 of resolution 1966 (2010), the Council decided that the Mechanism would operate for an initial period of four years, starting from 1 July 2012. The Council also decided to review the progress of the work of the Mechanism, including in completing its functions, before the end of that initial period and every two years thereafter. The Council further decided that the Mechanism would continue to operate for subsequent periods of two years following each such review, unless it decided otherwise.

In accordance with the provisions of article 8 of the statute of the Mechanism, which is set out in annex 1 to resolution 1966 (2010), the Mechanism is to have a roster of 25 independent judges, not more than two of whom may be nationals of the same State.

Furthermore, article 10, paragraph 3, provides that the judges of the Mechanism are to be elected for a term of four years and are to be eligible for reappointment by the Secretary-General after consultation with the Presidents of the Security Council and of the General Assembly. By its resolution 2269 (2016), the Council decided that, notwithstanding that provision, the judges of the Mechanism might be appointed or reappointed for a two-year term.

Pursuant to article 9, paragraph 1, of the statute, the judges are to be persons of high moral character, impartiality and integrity who possess the qualifications required in their respective countries for appointment to the highest judicial offices. Particular account is to be taken of experience as judges of the International Tribunal for the Former Yugoslavia or the International Criminal Tribunal for Rwanda.

The Government of Turkey has informed the Secretariat that Judge Aydin Sefa Akay is no longer eligible to be a judge in Turkey and does not possess the qualifications for appointment to the highest judicial office in Turkey under the applicable law. The Government has provided supporting material in this regard. In the light of the information furnished by the Government and a review of the relevant material, it is considered that Judge Akay does not currently meet the qualification

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requirements for judges of the Mechanism under article 9, paragraph 1, of the statute and, consequently, cannot be considered for reappointment.

The Office of Legal Affairs has consulted the other 24 judges of the Mechanism to ascertain their interest in and availability for reappointment. One, Judge Bakone Moloto (South Africa), has replied that he does not wish to be reappointed.

Therefore, I intend to reappoint the 23 judges of the Mechanism who are listed in the annex to the present letter for a term of two years, from 1 July 2018 to 30 June 2020, which will be in line with the upcoming period of operation of the Mechanism. I look forward to receiving your views on the proposed reappointment of the judges, in accordance with article 10, paragraph 3, of the statute.

Concerning the President of the Mechanism, article 11, paragraph 1, of the statute provides that, after consultation with the President of the Council and the judges of the Mechanism, the Secretary-General is to appoint a full-time President from among the judges of the Mechanism. The statute, resolution 1966 (2010) and subsequent resolutions are silent on the length of the term of office of the President.

Having consulted the judges of the Mechanism, I intend to reappoint Judge Theodor Meron (United States of America) as President for a new term of office from 1 July 2018 to 18 January 2019, and to appoint Judge Carmel Agius (Malta) as President with effect from 19 January 2019 to 30 June 2020. Judge Agius has previously served as President and Vice-President of the International Tribunal for the Former Yugoslavia.

I look forward to receiving your views on the proposed reappointment of Judge Meron and the appointment of Judge Agius, in accordance with article 11, paragraph 1, of the statute.

Regarding the Prosecutor, article 14, paragraph 4, of the statute provides that the Prosecutor is to be appointed by the Council on nomination by the Secretary-General. The Prosecutor is to be of high moral character and possess the highest level of competence and experience in the conduct of investigations and prosecutions of criminal cases. The Prosecutor is to serve for a four-year term and is to be eligible for reappointment. The terms and conditions of service are to be those of an Under-Secretary-General of the United Nations. By its resolution 2269 (2016), the Council decided that, notwithstanding article 14, paragraph 4, of the statute, the Prosecutor might be appointed or reappointed for a two-year term.

I hereby nominate Serge Brammertz (Belgium) for reappointment as Prosecutor of the Mechanism for a new two-year term, from 1 July 2018 to 30 June 2020.

I should be grateful if you would bring the present letter and its annex to the attention of the members of the Security Council.

(*Signed*) António **Guterres**

Annex

Candidates for reappointment as judges of the International Residual Mechanism for Criminal Tribunals

Mr. Carmel A. Agius (Malta)

Mr. Jean-Claude Antonetti (France)

Ms. Florence Rita Arrey (Cameroon)

Mr. Ben Emmerson (United Kingdom of Great Britain and Northern Ireland)

Mr. Christoph Flügge (Germany)

Ms. Graciela Susana Gatti Santana (Uruguay)

Mr. Burton Hall (Bahamas)

Ms. Elizabeth Ibanda-Nahamya (Uganda)

Mr. Vagn Joensen (Denmark)

Mr. Gberdao Gustave Kam (Burkina Faso)

Mr. Liu Daqun (China)

Mr. Joseph E. Chiondo Masanche (United Republic of Tanzania)

Mr. Theodor Meron (United States of America)

Mr. Lee Gacuiga Muthoga (Kenya)

Ms. Aminatta Lois Runeni N'gum (Zimbabwe/Gambia)

Ms. Prisca Matimba Nyambe (Zambia)

Mr. Alphonsus Martinus Maria Orie (Netherlands)

Mr. Seymour Panton (Jamaica)

Mr. Seon Ki Park (Republic of Korea)

Mr. José Ricardo de Prada Solaesa (Spain)

Mr. Mparany Mamy Richard Rajohnson (Madagascar)

Mr. Ivo Nelson de Caires Batista Rosa (Portugal)

Mr. William H. Sekule (United Republic of Tanzania)